THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25441 OF 2006

DATED 8th DECEMBER, 2006

BETWEEN

Baswada Sathi Reddy and others

… Petitioners

and

The Government of A.P., rep.by its Principal Secretary, Revenue, Secretariat, Saifabad, Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25441 OF 2006

ORDER:

Thirty-two (32) persons, who are mostly residents of Muppireddypally village of Toopran Mandal in Medak District joined in this common writ petition assailing **show cause notices**, dated 22.11.2006 issued by the third respondent, namely, the Mandal Revenue Officer (MRO), Toopran Mandal of Medak District. Impugned show cause notice issued to each one of the petitioners, is self-explanatory and reproduction of the same below would limit further narration of facts. It reads.

NOTICE

Sub: Government lands – Toopran Mandal – Muppireddypally village – Resumption of assigned land for use it for public purpose – Action initiated – Notice Issued – Reg.

Ref: 1. Dist.Collector, Medak at Sangareddy Lr.No.E3/2714/2006, dt.10.11.06.
2. RDO, Siddipet Lr.No.C/2588/2006, Date:21-11-2006.

* * *

Sri Basuwada Surendhar Reddy, S/o Narsa Reddy, R/o Muppireddypally is hereby informed that you have been assigned an extent of 1-29 acres of Government Land bearing Sy.No.354/37 situated at Muppireddypally village. The said land is required for the public purpose and hence the Government is intended to resume back the land under the following condition laid down in the D-patta certificate granted to you.

"In the event of the land being required for a project or any other public purpose the land will be resumed and no compensation shall be paid to the assignees. The decision of the Government or other authority empowered by them in this behalf shall be final on the question whether the purpose for which the land is to be resumed is a public purpose or not."

Therefore the above said assignee is hereby informed to show cause as to why the above said land shall not be resumed back into Government. He/she shall submit his/her written explanation to the undersigned within (15) days from the date of receipt of this notice. Failing which, it shall be

presumed that you have no explanation to offer in the matter and further action will be taken as proposed by this office.

Mandal Revenue Officer
Toopran

The above show cause notice was issued to fifth petitioner herein and all other show cause notices to other petitioners are also similar. Be that as it is, the learned senior counsel appearing for the petitioners submits that the impugned order is not a show cause notice but it is a decision by the respondents to resume the land assigned to the petitioners in accordance with Laoni Rules, 1950 made in G.O.Ms.No.1406, dated 26.07.1958 read with G.O.Ms.No.1724, dated 26.08.1959 and if such resumption is not stopped at the threshold, the same would imminently deprive the fundamental rights of the petitioners under Articles 14 and 21 of Constitution of India. The learned senior counsel would add that when the impingement of fundamental rights looms large, the Court of judicial review must accept the petition and adjudicate the matter. He placed reliance on Laoni Rules and A.P. (Telangana Area) Land Revenue Act, 1317F and also refers to condition 12 of the final patta certificate issued to the petitioners. **Per contra**, learned Assistant Government Pleader for Revenue (Assignment) opposes the writ petition contending that at the stage of show cause notice, the petition for judicial review would not lie.

The Supreme Court and this Court have repeatedly held that at the stage of show cause notice, a writ petition cannot be entertained. This principle is axiomatic and a detailed reference to binding judicial precedents would not be necessary except mentioning a few of them. (See **State of U.P. v Shri Brahma Datta Sarma**[1], **Special Officer, ULC v M.Vijayalakshmi**[2], **K.Veerabhadrudu v Special Deputy Collector**[3] and **Special Director v Mohd.Ghulam Ghouse**[4]).

This Court has also considered the question of jurisdiction and propriety of administrative action in issuing the show cause notice for resumption of the assigned lands. A reference to condition 12 of the final patta, to which a reference is made by the learned senior counsel, itself shows that under the grant, the Government has power to resume the land for public purpose or for the purpose of a project. Indeed, that was so held by three Full Benches of this Court (see **State of A.P., v P.Peda Chinnayya**[5], **State of A.P., v Bondapalli Sanyasi**[6] and **LAO-cum-RDO, Chevella Division, Hyderabad v Mekala**

Pandu[7]). This Court, however, hastens to add that as held by the Supreme Court in **Special Director** (supra), even the question of jurisdiction of notice issuing public authority can be raised as a jurisdictional issue by the recipient of the notice and such issues can be adjudicated by the decision maker as preliminary point.

This Court, therefore, following the binding precedents, is not inclined to accept the petition for judicial review. If, they have not filed the explanations to the show cause notices, the petitioners may file explanations within a period of ten days from the date of receipt of copy of this order. They are also given liberty to raise all legal and jurisdictional issues, which shall be considered by the notice issuing authority while passing final orders.

The writ petition, subject to above observations, is dismissed. No costs.

(V.V.S.RAO,J)

08.12.2006.
Note:
Furnish CC in two days.
B/o
pln

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[1] AIR 1987 SC 943
[2] 1998 (6) ALT 627 (D.B.)
[3] 2000 (1) ALT 452
[4] (2004) 3 SCC 440
[5] 1996 (2) ALD 1215 (FB) = 1997 (1) ALT 498 (FB)
[6] 2002 (2) ALD 1 (LB) = 2002 (1) ALT 543 (LB)
[7] 2004 (2) ALD 451 (LB)